

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8965 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 - Yes  
2 to 5 - No

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PRITIBEN M PATEL

Versus

UNION OF INDIA

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Appearance:

MR PJ PATEL for Petitioners

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/12/97

ORAL JUDGEMENT (Per: C.K.Thakkar,J)

This petition is filed against judgment and order passed by the Central Administrative Tribunal (Ahmedabad Bench) in Original Application No.482 of 1997 decided on October 21, 1997.

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#. The petitioners applied for the post of Postal

(Sorting) Assistant in Gujarat Circle. An advertisement was issued by the authorities stating therein that minimum educational qualification which required for the said post was 12th (10+2) Standard passed or equivalent recognized examination. The case of the petitioners is that they have passed 12th Standard examination. One of the marksheets of petitioner no.2 (Thakore Anilaben Gokalbhai) is annexed at Annexure "B" to the petition. It is issued by the Gujarat Secondary Education Board, Gandhinagar, showing statement of marks in each subject obtained at the Higher Secondary Certificate Examination in "Home Science".

#. The contention of the petitioners before the Central Administrative Tribunal was that since all the petitioners had passed 12th (10+2) Standard Examination, they were eligible to be considered for the post in question and by not considering them as qualified, an error of law was committed. It was also argued that the petitioners had not cleared 10+2 Examination in vocational stream. Alternatively, it was contended that even if it is held that it was a vocational stream, there was no prohibition in the advertisement and they cannot be treated as unqualified.

#. The Tribunal considered respective contentions of parties and interpreted statutory rules known as the Department of Posts (Postal Assistants and Sorting Assistant) Recruitment Rules, 1990 as amended by the Department of Posts (Postal Assistants and Sorting Assistant) Recruitment (Amendment) Rules, 1991. The relevant part of Rule 2(i) reads thus;

"2. (i) In the Schedule to the Department of Posts (Postal Assistants and Sorting Assistant) Recruitment Rules, 1990, against the post of Postal Assistants and Sorting Assistant in offices (other than Foreign Post Organisation) as well as against the post of Postal Assistants in the Foreign Post Organisation, Delhi, Calcutta, Madras and Bombay in column 8th, following words and brackets shall be added after the existing words, namely:-

"excluding vocational streams". (Emphasize applied).

(ii) ... .."

#. On the basis of the above amendment, the Tribunal held that the students who had passed 12th Standard

Examination in vocational stream were not eligible and were to be excluded. It also observed that constitutional validity of the said rules was challenged before the Bangalore Bench and the Bench upheld the validity thereof.

#. In our opinion, when a case was put forward by the respondent authorities that vocational stream was to be excluded and that the students who have passed in that stream could not be considered to be eligible, it cannot be said that by doing so, an illegality has been committed. In our opinion, the rules which are statutory in nature cannot be said to be arbitrary and/or discriminatory. We do not see any reason to interfere with the order passed by the Tribunal. Hence, the petition deserves to be dismissed and is dismissed.

Sd/-

(C.K.Thakkar, J.)

Sd/-

16-12-1997 (R.P.Dholakia, J.)

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